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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,973	07/12/2001	Joseph A. Schrader	164052.02	9505
22971 7590 02/05/2009 MICROSOFT CORPORATION ONE MICROSOFT WAY REDMOND, WA 98052-6399				
EXAMINER GRAHAM, PAUL J				
ART UNIT 2426		PAPER NUMBER		
NOTIFICATION DATE 02/05/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

09/903,973

**Applicant(s)**

SCHRADER ET AL.

**Examiner**

PAUL GRAHAM

**Art Unit**

2426

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-9, 11-13, 16-18 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-9, 11-13, 16-18 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant argues:

*Boyer fails to disclose the element of presenting a visual cue to the viewer ...*

The Examiner respectfully disagrees. The reference shows that Boyer discloses visual cues based on IP data (see Boyer, fig. 4 & 6a for personalization with IP data, visible on display indicating something such as content genre, start time, rating, each cues (visual) indicating the status in real time (note response to requests, Boyer, col. I I, ll. 15-30)).

*Reading the claims in the broadest sense*, Boyer does teach presenting a visual cue where the status indicates in real time a programs active or inactive. Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988, F.2d 1181,26 USPQ2d 1057 (Fed. CiT. 1993).

Said visual cues based on IP data comprise an indicator (claim 7) and an event alert (claim 29) both terms represent the *cue*, both terms represent an indication on the display of some event, in fact, support for such similarity is given in the instant spec (see [78]) where it is recited "*alerts or other real-time indicators that inform the viewer of certain events or the active status of. ..*" denoting no difference in their use).

Additionally, claim 7 recites an "active status ...", wherein the status indicates in real-time ... " further noting that said "active" indicator is a "real-time" indicator (as defined by said claims), therefore the rejection clearly reads on claim 7 and claim 29.

The Applicants arguments have been fully considered and are not persuasive. Claims 7-9, 11-13, 16-18, 29 stand rejected.

***Claim Rejections - 35 USC § 112***

2. Claims 7 and 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors), at the time the application was filed, had possession of the claimed invention.
3. Claim 7 recites as amended "wherein the status indicates in real time whether the one or more currently available broadcast television programs is currently active or inactive". In the instant specification it is noted that broadcast programming data and IP content are *initially* received by the client system and "alerts ... inform the viewer of programs *not currently* being viewed" (see instant spec [78]). From this information it is unclear that said program is currently being broadcast or was just initially broadcast, additionally it is difficult to discern the currency of the active status given that the program is currently not being viewed, it is not certain that it is being broadcast. The text of the specification does not support the allegations that are being claimed. Figure 9 supposedly shows a "dimmed or non-highlighted football. .". This is not shown in the instant figure 9, although alleged in remarks 8118/08 p. 7. The instant specification recites that status may be provided as a visual cue is lightened or darkened. Fig. 9

certainly does not show this and it is put forth that it cannot show this, in fact, even with the use of bold text, the "lightening or darkening" of the navigation element cannot be indicated. Hence, there is a gap between what is alleged and claimed and what is supported in the specification.

5. As to claim 29, as amended it recites "cue comprises a real-time event alert informing the user of an action that is *about* to occur in a currently broadcast television program". If the event is in real-time, then it must relay the alert information as it is happening, not before it occurs. Indicating that an event is *about to occur is prediction*, not real-time reporting. There is no support in the instant specification for *prediction-based* alerts.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless -  
(e) the invention was described in (j) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351. (a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21 (2) of such treaty in the English language.*

7. Claims 7-9, 11-13, 16, 18, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyer et al. (US Patent 7,165,098 B1).

Regarding claims 7 and 29 (corresponding method), Boyer teaches a method for presenting enhanced broadcast television programming (Fig. 1 & 3 and col. 6/lines 45-63 for an enhanced broadcast television system with the incorporation of the Internet) comprising the steps of: receiving a schedule for a

plurality of broadcast television listings. each of the plurality of television listings including a unique event identifier (Figs. 4 & 5a, and col. 4/lines 25-41 for unique event identifiers); receiving enhanced Internet protocol (IP) data including an event identifier associating the IP data with one of the plurality of television listings. wherein the IP data corresponds to broadcast television programming currently available to a viewer (col. 5/line 59 to col. 10/line 42 as TCP/IP protocol is used for representing IP data corresponding to the broadcast television programming using HTML pages); presenting a visual cue to the viewer based on the IP data on a video display wherein the visual cue comprises an active status indicator indicating the status of one or more currently available broadcast television program. wherein the status indicates in real-time whether the one or more currently available broadcast television programs IS currently active or inactive Said visual cues based on IP data comprise an indicator (claim 7) and an event alert (claim 29) both terms represent the *cue*, both terms represent an indication on the display of some event, in fact, support for such similarity is given in the instant spec (see [78]) where it is recited "*alerts* or other real-time *indicators* that inform the viewer of *certain events* or the *active status* of. .. " denoting no difference in their use).

Additionally, claim 7 recites an "active status ...", wherein the status indicates in real-time ... " further noting that said "active" indicator is a "real-time" indicator (as defined by said claims), therefore the rejection clearly reads on claim 7 and claim 29);

receiving a viewer selection of the visual cue; and tuning to the channel associated with the event identifier in response to viewer selection of the visual cue" {Fig. 4 with visual cues for setting the programs based on the active status as for today's schedule, this week, this month. reminder delivery etc, and / or as in Fig. 6a for active status of currently available program as title, actor, channel, start time Of rating etc. or the genre

of the programs). The reference shows that Boyer discloses visual cues based on IP data (see Boyer, fig. 4 & 6a for personalization with IP data, visible on display indicating something such as content genre, start time, rating, each cues (visual) indicating the status in real time (note response to requests, Boyer, col. II, 11.15-30).

For claim 8, Boyer teaches "wherein the video display is a conventional television receiver" (Fig. 3/item 120 or 112).

For claim 9, Boyer teaches "wherein the Internet protocol data comprises a portion of the available television programming" (Fig. 23 and col. 191 line 48 to col. 201 line 27).

For claims 11- 13, these claims for the steps of "wherein the Internet protocol data portion is filtered to correspond to currently available sports television programming"; "wherein the Internet protocol data portion is filtered to correspond to other sports television programming currently in progress"; and "wherein the portion corresponding to the available television programming is the same as the event identifier corresponding to the IP data" are taught by Boyer as discussed earlier and further in Figs. 6a & 8 for sports and other categories as well as Fig. 22 and col. 12/lines 22-51 on how the data is being filtered to sports).

As for claim 16, Boyer teaches "a client system for receiving a broadcast television navigation service comprising: means for receiving broadcast television programming (Fig. 1 & 3 and col.

6/lines 45-63 for an enhanced broadcast television system with the incorporation of the Internet);

means for receiving Internet protocol (IP) data that is not provided in a program band of the broadcast television programming (Fig. 3 and col. 9lines 23-30 as the television signals and the internet data are received from 2 different inputs 118 for TV and web communication link 104- which is clearly not in a program band of the TV programming), wherein the IP data corresponds to broadcast television programming *currently* available to a viewer (col. 8/line 59 to col. 10/line 42 as TCPIIP protocol is used for representing IP data corresponding to the broadcast television programming using HTML pages); and

means for linking the broadcast television programming with the Internet protocol data; means for receiving enhanced Internet protocol (IP) data including an event identifier associating the IP data with one of the plurality of television listings, wherein the IP data corresponds to broadcast television programming *currently* available to a viewer (col. 8/line 59 to col. 10/line 42 as TCPIIP protocol is used for representing IP data corresponding to the broadcast television programming using HTML pages);

means for presenting a visual cue to the viewer based on the IP data on a video display wherein the visual cue comprises an active status indicator indicating the status of one or more *currently* available broadcast television program, wherein the status indicates in real-time whether the one or more *currently* available broadcast television programs is *currently* active or inactive: receiving a viewer selection of the visual cue; and tuning to the channel associated with the event identifier in response to viewer selection of the visual cue" (Fig. 4 with visual cues for setting the programs based on the active status as for today's schedule, this week, this month, reminder delivery etc.



and/or as in Fig. 6a for active status of *currently* available program as title, actor, channel, start time or rating etc. or the genre of the program(s), display is means).

As for claim 18, Boyer further teaches this recording feature for recording one or more of the received broadcast television programming (Fig.2 item 68).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*
9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer et al (US Patent 7,165,098 B1) in view of Dougherty et al (US Patent 7,028,327).

Regarding claim 17, Boyer does not suggest using "digital tuners" or "multiple digital tuners"; however, this technique of "wherein said means for receiving broadcast television programming and means for receiving Internet protocol data comprises multiple digital tuners" is known in the art. In fact, Dougherty teaches the same technique of using digital tuners in their system in order to synchronize with digital broadcast program while using electronic program guide to search for program listings (Fig. 2/item 202, and col. 13/line 50 to col. 14/line 2, wherein tuner can be a digital tuner). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Boyer's system with Dougherty's teaching

system in order to equip the system with digital tuners for receiving digital broadcasting programs. The motivation for doing this is to offer an adaptation in receivers by using digital tuners for receiving and tuning to appropriate digital streaming programs instead of an analog tuner for receiving conventional (analog) television broadcast.

### ***Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL J. GRAHAM whose telephone number is (571)270-1705. The examiner can normally be reached on Monday-Friday 8:00a-5:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2426

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

pjg

1/11/09

/Annan Q Shang/

Primary Examiner, Art Unit 2424